

GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

REVISION PETITION – Revision petition filed by Sri Omprakash, S/o. Late Ganesh Prasad, under section 166-b (1) of the Andhra Pradesh (Telangana Area) Land Revenue Act, 1317 Fasli against the orders of CSS&LR., Hyderabad in Rc.No.S1/4735/2009 dated 29.1.2010 in respect of land in old Sy.No.39 corresponding to new Sy.No.1 of Dargah Hussain Shahwali Village, Serilingampally Mandal, RR District under Section 187 of A.P.T.A. LR Act, 1317 Fasli - Revision Petition Dismissed – Orders – Issued.

[illegible]**REVENUE (SS.1) DEPARTMENT**

G.O.Rt.No. 1055

Dated:25-08-2011.

Read the following:-

1. Revision Petition filed by Sri Omprakash, S/o. Late Ganesh Prasad, dated Nil received on 23-04-2010.
2. Govt.Memo.No. 18851/SS.1/2010-1, Dated 30-04-2010.
3. From the CSS&LR, Hyd., Lr.Rc.No.S1/2723/2010,dt.24-05-2010.
4. Further representation of Sri Omprakash, S/o. Late Ganesh Prasad, dated Nil.

ORDER:-

In the reference 1st read above Sri Omprakash, S/o. Late Ganesh Prasad, Basheerbagh, Hyderabad District has filed a Revision Petition before the Government under section 166-b (1) of the Andhra Pradesh (Telangana Area) Land Revenue Act, 1317 Fasli aggrieved by the orders of Commissioner, Survey Settlements and Land Records, Hyderabad in Rc.No.S1/4735/2009 dated 29.1.2010.

2). The Revision Petitioner has preferred the following grounds in his Revision Petition:-

- i) The impugned order dated 29.1.2010 in Rc.No. S1/4735/2009 is illegal, contrary to law and vitiated by jurisdictional errors.
- ii) The first respondent i.e., CSS&LR, Hyderabad having directed the second respondent to conduct a quasi judicial enquiry and spot inspection and having called for further documents, failed to go into the factual aspects at all and the voluminous material placed before him and simply rejected the proposal on an erroneous view that Section 87 of the Act has no application to the facts of the case.
- iii) The first respondent ie., CSS&LR, Hyderabad failed to see that there is no dispute with regard to the facts submitted by the Assistant Director or the first respondent or the petitioner and his co-owners that the lands in question was part of Ac.12.00 Gnts Garden which has been enjoyed as a single compact block by the same pattedars for over a century and with a common compound wall and the survey that was conducted is subsequent to the above registered sale deeds. The satellite image of the Google Earth and the plans annexed to these sale deeds of 1964 and 1907 show that there is absolutely no change in the holding for more than a century. Hence, the admitted gap area of Ac.1.35 Gnts is obviously a survey error, which is liable to be corrected under Section 87 of the Act.
- iv) The first respondent ie., Commissioner, Survey Settlements and Land Records, Hyderabad committed serious illegality in stating that the proposal for correction involves neither a survey error nor a wrong entry of pattedar's name so as to invoke the provisions of Section 87 of the Act and failed to exercise the jurisdiction vested in him.

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- v) It is submitted that the clerical errors contemplated by Section 87 of the Act were clarified by the Chief Commissioner of Land Administration in their circular gazette that such errors include "area is calculated wrongly though the measurements on ground and the record support the correct area". The first respondent i.e., CSS&LR, Hyderabad failed to see that there is no change in the total extent of the area in which the measurements and the records support the omission of the correct area which can be treated as a clerical error, resulting in the gap area and when no government land is involved, such mistake ought to be corrected and such mistakes cannot be relegated to the civil court as wrongly observed by the first respondent in the impugned order, particularly when there is no dispute as to title and the possession of the petitioner and his co-owners and their predecessor in title is more than century old, long prior to the survey.

3) The Revision Petitioner has prayed the Government to set aside the order bearing Rc.No.S1/4735/2009, dated 29.1.2010 passed by the first respondent i.e., Commissioner, Survey Settlements and Land Records, Hyderabad and accept the proposals sent by the second respondent i.e., District Revenue Officer, RR District., for correction in his report bearing Rc.No.A1/849/2008 dated 27.10.2009 and further direct the first respondent i.e., CSS&LR., Hyderabad to carry out the correction as per the said proposal under Section 87 of the A.P. (TA) Land Revenue Act, 1317 Fasli and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

4) Government have admitted the revision petition and in Memo.No.54483/SS-1/2009-1, Dated 11-2-2010 has stayed the Proceedings issued by the Commissioner, Survey Settlements and Land Records, Hyderabad in Rc.No.S1/4735/2009 dated 29.1.2010 and requested the Commissioner, Survey Settlements and Land Records, Hyderabad to furnish the entire original record of the Proceedings Rc.No.N1/4883/06, dt:19.12.2006 along with specific remarks.

5) The Commissioner Survey Settlements and Land Records vide reference 3rd read above, while furnishing the original record of the Proceedings Rc.No.N1/4883/06, dt:19.12.2006 has offered the following remarks on the grounds preferred by the Revision Petitioner in the reference 1st cited:-

- i) The Commissioner Survey Settlements and Land Records has jurisdiction under Section 87 of the A.P. (TA) Land Revenue Act, 1317 Fasli.
- ii) This is incorrect and all the material was examined.
- iii) The records captured the situation obtaining on ground at the time of revision survey. Alleged pre-revision survey possession and recent satellite images have no relevance. The reasons for omitting 2 bits to the North and South of S.No.1 cannot be ascertained at this point in time. If the revision petitioners are aggrieved by the omission, they should get their rights declared by an appropriate civil court.
- iv) There is no survey error in the sense that whatever land was measured was measured correctly. Omission of 2 bits for some reason cannot be called as survey error. When a piece of land was omitted to be surveyed, the question of wrong entry does not arise.
- v) This is not a case of wrong calculation of area.

The brief history of the case is as follows:-

1. Sri Omprakash and others have submitted an application to the DRO, RR District for correction of settlement error in respect of Survey No.1 of Darga Hussain Shahwali, Serilingampally Mandal, Ranga Reddy District. The Assistant Director, Survey and Land

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Records, in his report has submitted that there is a gap un-surveyed area in between Sy.No.(1) and village boundary of Raidurg village boundary to an extent of Ac.1.05 Gnts at the northern side, and an extent of Ac.0.30 Gnts at the southern side adjacent to the road leading to village side. Apparently there is a survey (Measurement) error crept in survey settlement operation as a result there is an unaccounted left over gap area to an extent of Ac.1.35 Gnts."

2. The District Revenue Officer, RR District vide his letter No.Rc.A1/849/2008 dated 19.6.2009. sent proposals CSS&LR, Hyderabad for permission to take up the case under Section 87 of the Act.
3. The CSS&LR, Hyderabad in his Ir. Rc.No.S1/4735/09 dated 8-9-2010 addressed to the RDO, RR Dist., has informed that in his Ir. Dt.16-7-2009 it was requested to conduct quasi-judicial enquiry regarding condonation of delay. If there is need for correction, proposal for such survey error u/s 87 of AP (TA) LR Act, 1317 Fasli may be sent in full shape duly enclosing the following documents/records:-
 - a) Extract of Sethwar
 - b) Extract of Wasool Baqui
 - c) Copies of Old & New Village Maps
 - d) Correlation map and Correlation statement
 - e) Copy of Khasra Pahani
 - f) Spot inspection reports of the DRO & the Asst. Director, S&LR, RR Dist.
 - g) Copies of Tippons
 - h) Proceedings of quasi judicial enquiry
4. The District Revenue Officer, RR District in his Ir. No.A1/849/2008,dt.27-10-2009 addressed to the CSS&LR has informed that he has conducted the quasi judicial enquiry and issued proceeding on 20-10-2009. He has submitted the following records except correlation sketch and copy of Khasra Pahani:-
 - a) Extract of Sethwar
 - b) Extract of Wasool Baqui
 - c) Copy of Tippon
 - d) Copy of Village Map.
 - e) Correction statement.'
 - f) Spot inspection reports of the DRO & the Asst. Director, S&LR, RR Dist.
 - g) Quasi Judicial Enquiry Proceedings of the DRO in case NO.A1/849/2008, DT.20-10-2009. ies of Old & New Village Maps
5. The DRO, RR Dist., has further submitted that as regard to copy of old map and correlation sketch it is submitted that the records of Darga Hussain Shavali Village, Serilingampally Mandal are in torn condition. Thorough search has been made at DMU Ranga Reddy District, Central Survey Office, Hyderabad and Taluk Office to trace out old village map, but in vain. As such the correlation sketch superimposing the old and new boundaries could not be prepared and submitted. As regards to Khasra Pahani it is submitted that the Dy. Collector and Tahsildar, Serilingampally Mandal was addresses to furnish the same vide Letter Rc.No.A1/849/2008,Dt:03.08.2009.The Dy.Collector and Tahsildar, Serilingampally Mandal vide Lr.No.C/10/2009 dated 20.08.2009 has informed that the Khasra Pahani of Darga Hussain Shavali Village not available, as the key register for the record received from Erstwhile Taluk Rajendernagar the Khasra Pahni of Darga Hussain Shavali Village not received. He

6. has, therefore, requested the Commissioner of Survey Settlement and Land Records, A.P., Hyderabad kindly accord permission to carryout corrections Survey records of Sy.Nos.1 as per ground status Ac.9-00 instead of Ac.7-05 gts or for inclusion of (2) portions of gap area as at 'A' & 'B' indicated in the sketch measuring Ac.1-06 gts and Ac.029 gts respectively, by giving last survey numbers of Darga Hussain Shavali Village, Serilingampally Mandal, Ranga Reddy District in Khata No.(8) against (old) Sy.No.39 in addition to the new Survey number already correlated and to communicate the orders.
 7. After examining the proposal the CSS&LR, Hyderabad vide his Procs.Rc.No.S1/4735/2009 dated 29.1.2010 has observed that Sy.No.1 measures an extent of Ac.7.05 gnts as per Survey and Land Records presently in force. The proposal is to enhance the area of Sy.No.1 from Ac.7.05 gts., to Ac.9.00 by way of correction of survey error under Section 87 of A.P. (TA) by including 1two pieces of land on the northern and southern sides measuring Ac.1.06 gnts, and Ac.0.29 gts., respectively or alternatively include them in Khatha against Sy.No.39. The proposal is supported citing two grounds:
 - 1) the extent occupied on ground by the claimant to Sy.No.1 if Ac.9 and the said extent is covered by a compound wall claimed to be about 50 years old;
 - 2) the extent shown in the Wasool Baqui against corresponding old Sy.No. is 9 Ac.
 8. The following facts are noticed in the proposal:-
 - a) The correlation sketch superimposing the old and new boundaries could be prepared and submitted for want of old villag map.
 - b) The technical records ie., wasool baqui, tippon of Sy.No.1 and pass book have been verified and it is found that there is no error in the record.
 - c) The Khasra Pahani of the village is also not available and hence the relevant extracts thereof cannot be submitted.
 - d) The immediate claimant traces title to a registered sale deed of 1964 wherein his predecessors in interest are stated to have purchased an extent of Ac.12, which, admittedly, includes only an extent of Ac.7.15 Gts in Sy.No.1.
 9. The conclusion that can be drawn from the above facts is that no survey of settlement error as such is proved. The proposal, therefore, has to be sustained only on the ground of the alleged long possession.
 10. The proposals involves neither a survey error nor a wrong entry of Pattadar's name so as to invoke the provisions of Secion 87 of A.P. (Telengana Area) Land Revenue Act, 1317 Fasli. The proper course would be to treat the un-surveyed land and un-settled portions of the land as un-assessed waste land (Government lands) by assigning field numbers in seriatim to the survey numbers already assigned in the village. As to the rights, if any, that might flow out of an alleged long possession of the land, it is for a Civil Court of competent jurisdiction to settle and declare such rights. Section 87 of A.P. (Telengana Area) Land Revenue Act, 1317 Fasli cannot be invoked for such relief.
- 6) In order to dispose of the revision petition a personal hearing was held on 14-07-2011 at 04.30 PM. The CSS&LR, Hyd., the DRO, RR Dist., and the Revision Petitioner present. On the request of the Revision Petitioner, permission was granted to file Vakalat by the Counsel for the Revision Petitioner.

7) After hearing the arguments and after going through the record, it is observed that as per section 87 of AP (TA) LR Act, 1317 Fasli the District Collector is competent to correct clerical error at any time in settlement records if they are minor errors not involving alteration in area of land or the name of the Pattadar in the Settlement Register beyond two years with the sanction of the Government. Government has revision power under Section 166-B of the above Act. Any person in possession of Government land for a period of 30 years may file a suit in a court for declaration of title to the land. The CSS&LR, Hyd., in his orders dt.29-1-2010 found that the extent of land in Sy.No.1 of Dargah Hussain Shahwali Village is Ac.07.05. The petitioner is contending that in old Sy.No.39 the extent of land is 9 acres and therefore, the extent of land in New Sy.No.1 of Dargah Hussain Shahwali is Ac.09.00 and hence there is error in recording the extent of land in the survey records. The District Revenue Officer, Ranga Reddy in his Procs.in case No.A1/849/08, dt.20-10-2009 found that as per ground status the extent of land in Sy.No.1 is Ac.9.00 and petitioners are in possession of the land. It is alteration in area of land and not a clerical error and Section 87 of A.P. (TA) Land Revenue Act is not applicable. If the petitioner is in continuous possession of above un-surveyed lands it is for him to agitate the matter before the competent Civil Court and obtain declaratory relief for correction of survey record.

8) In view of the above, I do not see any valid reasons to interfere with the Proceedings Procs.Rc.No.S1/4735/2009 dated 29.1.2010 of the Commissioner, Survey, Settlements and Land Records and accordingly hereby dismiss the Revision Petition filed by Sri Omprakash, S/o. Late Ganesh Prasad, Basheerbagh, Hyderabad.

9) The stay orders issued in Govt. Memo.No.54483/SS-1/2009-1, Dated 11-2-2010 against the Proceedings of the Commissioner, Survey Settlements and Land Records, Hyderabad in Rc.No.S1/4735/2009 dated 29.1.2010 are hereby vacated.

10) The Commissioner, Survey Settlements and Land Records, Hyderabad shall take necessary action in the matter.

11) The record bearing file No. S1/4735/09 containing pp.1-174 cf, and pp.1-19 nf., received through the reference 3rd read above is returned herewith.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

ANIL CHANDRA PUNETHA
PRINCIPAL SECRETARY TO GOVERNMENT

To
Sri Omprakash, S/o. Late Ganesh Prasad, R/o H.No.5-9-30/6, Basheerbagh,
Hyderabad (Through District Revenue Officer, RR District)
The Commissioner, Survey Settlements and Land Records,
Hyderabad (with records)
The District Revenue Officer, Ranga Reddy District.
The District Collector, Ranga Reddy District.
Copy to M/s M.V.Durga Prasad, Advocate, Plot No.322-B, Phase-III,
Road No.82, Adjacent to Rama Naidu Studios, Jubilee Hills, Hhyderabad -500 033.
(Counsel for the Revision Petitioner).
Copy to the P.S. to Prl. Secy., Revenue.
SF/SC.

// FORWARDED BY ORDER //

SECTION OFFICER